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Paper No. 4

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In re Application of	:	OFFICE OF PETITIONS
Mains	:	
Application No. 09/873,104	:	DECISION GRANTING
Filed: June 1, 2001	:	PETITION
Attorney Docket No. MAI-3	:	

This is a decision on the petition filed September 27, 2001, to establish that Figures 3 and 4 were part of the originally filed application.

On June 1, 2001, the application was filed.

On August 3, 2001, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s)" stating that the application had been accorded a filing date of June 1, 2001, and advising applicants that Figures 3 and 4 described in the specification appeared to have been omitted.

In response, the present petition was filed alleging that Figures 3 and 4 were deposited on June 1, 2001. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "4 Sheets of Drawing" on June 1, 2001.¹ Petitioner has also submitted a copy of the missing documentation- Figures 3 and 4.

Upon review of the record, Figures 3 and 4, deposited on June 1, 2001, have not been located. However, the evidence is convincing that the application papers deposited on June 1, 2001, included Figures 3 and 4, and that Figures 3 and 4 were subsequently misplaced in the PTO.

In view of the above, the petition is **granted**. The copy of Figures 3 and 4 submitted with the petition will be used for examination purposes.

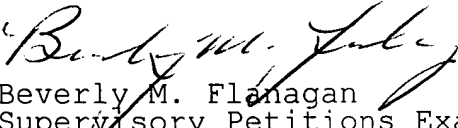
The petition fee will be scheduled to be refunded to petitioner.

¹ Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

The Notice mailed August 3, 2001 was sent in error and is hereby vacated.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of **June 1, 2001** (computer records, at the present time, incorrectly show a date of September 27, 2001), using the application papers filed on June 1, 2001, and the copy of Figures 3 and 4 filed on September 27, 2001.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.


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for Patent Examination Policy